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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 09/954,994 | 09/18/2001 | Sven K. Esche | SIT-0106 | 2909 |
| 26259 | 7590 | 10/10/2003 | EXAMINER | |
| LICATLA & TYRRELL P.C. 66 E. MAIN STREET MARLTON, NJ 08053 | | | BURCH, MELODY M | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3683 | |

DATE MAILED: 10/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-----------------|--------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 09/954,994 | ESCHE ET AL. |
| Examiner | Art Unit | |
| Melody M. Burch | 3683 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 07 August 2003.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1 and 2 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1 and 2 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on 23 June 2003 is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. _____.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

| | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/23/03 has been entered.

Information Disclosure Statement

2. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Specification

3. The disclosure is objected to because of the following informalities:

- Element numbers "10" and "42" were both used in the specification to designate the "upper pressure chamber". Element number "10" is first used on pg. 4 line 30 and element number "42" is first used on pg. 5 line 9.

Element numbers "12" and "52" were both used in the specification to designate the "lower pressure chamber". Element number "12" is first used on pg. 4 line 31 and element number "52" is first used on pg. 5 line 12.

Appropriate correction is required.

Claim Objections

4. Claim 1 is objected to because of the following informalities: the phrase "said pressure chamber" in the last line of the claim should be changed to --said at least one pressure chamber-- to maintain consistent terminology. Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1 and 2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re: claims 1 and 2. The phrase "the operating point" in line 4 of claims 1 and 2 lacks proper antecedent basis in the claims.

Re: claim 2. The phrase "the preload" in the last two lines of the claim lacks proper antecedent basis in the claim.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claim 1 is rejected under 35 U.S.C. 102(e2) as being anticipated by US Patent 6371462 to Gennesseaux. Gennesseaux shows in figure 1 a device for adaptive vibration attenuation comprising a passive isolator 17 with a nonlinear force-deflection characteristic as disclosed in col. 2 lines 2-3 and a pneumatic actuator P,49 which varies the operating point of the isolator along the force-deflection characteristic wherein the pneumatic actuator comprises at least one pressure chamber P wherein air pressure in the pressure chamber can be externally controlled via elements 49,50,51,52,55.

9. Claim 2 is rejected under 35 U.S.C. 102(a) as being anticipated by JP2000-291725 (JP '725). JP '725 shows in figure 1 a device for adaptive vibration attenuation comprising a passive isolator 14a,14b with a nonlinear force-deflection characteristic as disclosed in line 3 of the novelty section of the English abstract and a mechanical actuator 22,28 which varies the operating point of the passive isolator along the force-

deflection characteristic wherein the mechanical actuator is comprised of a spring 28, and a means 22 for externally controlling the preload to the spring.

Response to Amendment

10. The amendment to the specification filed on 6/23/03 does not include markings to indicate the changes that have been made relative to the immediate prior version of the specification. The text of any added subject matter must be shown, for example, by underlining the added text. The text of any deleted matter must be shown, for example, by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. This section is directed particularly to the portion of the amendment discussed on pg. 10 lines 7-12 of Applicant's remarks filed 6/23/03 in which Applicant explains that the specification was amended at page 4 lines 13,27,28. Examiner also notes that no change appears to have been made to pg. 4 line 13, for example, of the originally filed specification.

Response to Arguments

11. Applicant's arguments with respect to claims 1 and 2 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melody M. Burch whose telephone number is 703-306-4618. The examiner can normally be reached on Monday-Friday (7:30 AM-4:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on 703-308-3421. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

mmB
mmB
October 7, 2003

Melody M. Bunch
10/7/03